REMARKS

Applicant is in receipt of the Office Action mailed May 20, 2004. Reconsideration of the present case is earnestly requested in light of the following remarks.

The Office Action states "The priority date for this application is 08/21/2001." Applicant respectfully submits that the Priority Date for this Application is June 29, 2001. Applicant filed a Preliminary Amendment on January 28, 2002 to amend this Application, wherein the Preliminary Amendment includes Applicant claiming benefit of priority to U.S. Provisional Application Serial No. 60/301,799 filed June 29, 2001, whose inventors were Nicolas Vazquez and Kevin L. Schultz, for this Application.

Provisional Obviousness-Type Double Patenting Rejections

Claims (1, 19, 20), (21), (25), and (35) were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over respective claims (1, 3, 8), (16), (20), (21), and (28) of co-pending Application No. 10/100,559. In the event that the conflicting claims are patented, Applicant agrees to file a Terminal Disclaimer to resolve this issue.

§103 Rejections

Claims 1-35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Favreau et al. (U.S. Pat. No. 6,531,707 B1, hereinafter "Favreau") in view of Marrion, Jr. et al. (U.S. Pat. No. 6,408,429 B1, hereinafter "Marrion"). This rejection is respectfully traversed.

Applicant respectfully submits that there is no teaching, suggestion, or motivation to combine Favreau and Marrion in either of the references or in the prior art. As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or

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motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis.

Furthermore, Applicant respectfully submits that the showing of a suggestion, teaching, or motivation to combine prior teachings "must be clear and particular. . .Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence'." *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination. Applicant also respectfully submits that there is no suggestion in the prior art for combining Favreau and Marrion, and that even were the two references combined, they would not produce Applicant's invention as claimed.

Applicant notes that nowhere does Favreau teach or suggest combining a process specification that includes a plurality of <u>user selected processing steps or operations</u> with a block diagram. In fact, neither Favreau nor Marrion teaches or suggests combining a step sequence and a block diagram in specifying a machine vision process, where the step sequence specifies a first portion of the process and the block diagram specifies a second portion of the process. Rather, Marrion teaches using a control flow data structure and/or a data flow data structure to specify the step sequence itself. Applicant, thus, respectfully submits that combining Favreau and Marrion in an attempt to establish an obviousness rejection is improper, and it is nonobvious to combine Favreau and Marrion.

The Office Action asserts that col. 9, lines 34-65 of Favreau teach various features of Applicant's claim 1. Applicant respectfully disagrees based on the following reasoning.

Applicant can find no teaching or suggestion of a <u>user selecting process steps or operations</u> anywhere in Favreau. Accordingly, Applicant respectfully submits that Favreau nowhere teaches or suggests ". . .receiving <u>user input selecting a plurality of steps</u> specifying a first portion of the process. . .*(emphasis added)*" as recited in Applicant's claim 1.

Rather, Favreau's system is directed to a machine vision system where an article is illuminated by a light source, image data obtained and normalized, and exposure control level of an imaging device controlled based on the normalized image data (Favreau Abstract). In describing the graphical user interface (GUI) for the system, Favreau discloses using the GUI to "provide inspection information to the user via, for example, the display" (Favreau col. 9, lines 38-41). Favreau further teaches that the user can specify an initial exposure control level: "The user interface 570 may include, for example, hardware and software for cooperating with the display 18, a keyboard and mouse, etc. Moreover, the user interface 570 may include a speaker and microphone, not shown, for outputting and inputting information to and from a user, such as an initial exposure control level" (Favreau col. 9, lines 42-46) (*emphasis added*).

Applicant notes that Favreau only discloses the user interacting with the software programs to provide input data, such as an initial exposure control level or a normalization level into the machine vision system via the GUI interface, and that interacting with the software programs "so as to perform the operations" is <u>not</u> the same as ". . .receiving user input selecting a plurality of steps specifying a first portion of the process. . .(*emphasis added*)".

Thus, Applicant respectfully submits that Favreau does not teach or suggest ". . .receiving user input selecting a plurality of steps specifying a first portion of the process. . ." as recited in Applicant's claim 1.

Furthermore, Applicant respectfully submits that Favreau nowhere teaches or suggests ". . .displaying a graphical user interface comprising a plurality of possible steps that are useable in specifying at least a portion of a process. . ." as recited in Applicant's claim 1.

Rather, Favreau teaches and discloses, as cited by the Office Action:

Image processing mechanism 510, similarly to image processing mechanism 410, may fetch instructions from memory 420 and decode them, which may cause the image processing mechanism 510 to transfer data to or from memory 420 or to work in combination with the GUI interface 560 (for example, to provide inspection information to the user via, for example, the display 18). (Favreau col. 9, lines 34-41)

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Applicant respectfully submits that ". . .fetch instructions from memory 420 and decode them, which may cause the image processing mechanism 510 to transfer data to or from memory 420 or to work in combination with the GUI interface 560. . .", or anything else in Favreau, does <u>not</u> teach or suggest ". . .<u>displaying</u> a graphical user interface comprising a <u>plurality of possible steps that are useable in specifying at least a portion of a process</u>. . ." (*emphasis added*).

Thus, for at least the reasons provided above, Applicant respectfully submits that claim 1 is patentably distinguished over both Favreau and Marrion, taken both singly and in combination. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 1 and those dependent therefrom are allowable.

Claims 21, 27, and 35 includes limitations similar to claim 1, and so the arguments presented above apply with equal force to these claims, as well. Applicant also respectfully submits that for at least one or more reasons presented, claims 21, 27, and 35, and any claims respectively dependent therefrom, are patentably distinguished over both Favreau and Marrion, taken both singly and in combination, and are allowable.

Regarding claim 25, Applicant respectfully submits that neither Favreau nor Marrion teach or suggest ". . .receiving user input indicating operations to be performed on an object. . .", "storing a plurality of steps in a script in response to the user input", and "creating a block diagram in response to user input, wherein the block diagram specifies a decision operation basd on execution results of the plurality of steps", and "wherein the script and the diagram collectively specify the computer-implemented process", as recited in Applicant's claim 25. In other words, neither Favreau nor Marrion teaches or suggests using user-defined steps in a script in conjunction with a user-defined block diagram to specify a computer-implemented process, where the block diagram specifies a decision operation based on execution results of the step sequence. Thus, Applicant respectfully submits that claim 25 is patentably distinguished over both Favreau and Marrion, taken both singly and in combination. Accordingly, Applicant

respectfully submits that, at least for one or more reasons presented, claim 25 is allowable.

Regarding claim 26, Applicant respectfully submits that neither Favreau nor Marrion teach or suggest ". . .creating a process specification in response to user input, wherein the process specification comprises a plurality of steps specifying a first portion of the process. . ." and "creating a block diagram in response to user input, wherein the block diagram specifies a second portion of the process", and "wherein the process specification and the block diagram collectively specify the computer-implemented process", as recited in Applicant's claim 26. In other words, neither Favreau nor Marrion teaches or suggests collectively specifying respective portions of a computer-implemented process via a process specification (comprising a plurality of steps) and a block diagram (comprising a plurality of interconnected nodes). Thus, Applicant respectfully submits that claim 26 is patentably distinguished over both Favreau and Marrion, taken both singly and in combination. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 26 is allowable.

Applicant also respectfully submits that numerous ones of the dependent claims recited further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Applicant respectfully requests removal of the §103 rejections.

CONCLUSION

In light of the foregoing remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-52800/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

☒ Information Disclosure Statement

Respectfully submitted,
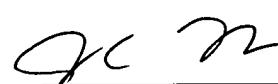
Jeffrey C. Hood
Reg. No. 35,198
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8800
Date: _____9/15/2014____ JCH/MSW/IMF